

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH C. SPENCER,

1:01-cv-06066-OWW-SMS-P

Plaintiff,

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS** (Doc. 42)

vs.

ORDER DISMISSING ACTION

LAWHORN, et al.,

Defendants.

Plaintiff Joseph C. Spencer ("plaintiff") is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On November 3, 2005, the Magistrate Judge filed a Findings and Recommendations herein which was served on plaintiff and which contained notice to plaintiff that any objections to the Findings and Recommendations were to be filed within thirty (30) days. To date, plaintiff has not filed objections to the Magistrate Judge's Findings and Recommendations.

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1 In accordance with the provisions of 28 U.S.C.
2 § 636(b)(1)(C) and Local Rule 73-305, this Court has conducted a
3 de novo review of this case. Having carefully reviewed the
4 entire file, the Court finds the Findings and Recommendations to
5 be supported by the record and by proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The Findings and Recommendations, filed November 3,
8 2005, is ADOPTED IN FULL; and,

9 2. This action is DISMISSED, without prejudice, for
10 plaintiff's failure to state a claim against defendant Madding,
11 and for failure to exhaust the claim against defendant Lawhorn.

12
13 IT IS SO ORDERED.

14 **Dated: December 19, 2005**
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/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE